Mail Stop INTERFERENCES

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Paper 151

UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference No. 105,298

SLOAN-KETTERING INSTITUTE FOR CANCER RESEARCH (6,242,469 B1 and 6,284,781 B1), Junior Party,

v.

GESELLSCHAFT FÜR BIOTECHNOLOGISCHE FORSCHUNG MBH (09/313,524),
Senior Party.

ENTERED: 12 July 2006

NAGUMO, Administrative Patent Judge.

REDECLARATION - Bd.R. 203(c)

2 A. Introduction

1

A panel of the Board has determined that: GBF is not

entitled to a patent to certain claims of U.S. application

5 09/313,524; GBF is accorded benefit for priority for Count 1 of

6 its PCT and German applications; and that the designation of

7 certain GBF and SK claims as corresponding or not corresponding

8 to Count 1 should be changed. (Paper 150.)

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Accordingly, it is ORDERED that this interference is
1
2
      redeclared as follows (the Count, the inventors and real parties-
      in-interest remain unchanged):
3
           Junior Party: Sloan-Kettering Institute for Cancer Research
4
5
           Involved patents:
           6,242,469 B1, based on 08/986,025, filed 3 December 1997;
 6
7
      and
           6,284,781 B1, based on 09/691,615, filed 18 October 2000.
 8
           Accorded benefit:
 9
                60/055,533, filed 13 August 1997
10
                60/047,941, filed 29 May 1997
11
                60/047,566, filed 22 May 1997
12
                60/033,767, filed 14 January 1997
13
                60/032,282, filed 3 December 1996.
14
                          Gesellschaft für Biotechnologische Forschung
15
           Senior Party:
                          mbH
16
           Involved application:
17
                09/313,524, filed 17 May 1999.
18
           Accorded benefit:
19
                PCT/EP97/06442, filed 18 November 1997
20
                DE 196 47 580.5, filed 18 November 1996.
21
22
           The claims of the parties are:
23
                SK 469:
                          1-22
                SK 781:
                          1-37
24
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1-4, 15, 16, and 18-21

25

GBF:

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The claims of the parties that correspond to Count 1 and
1
2
      that are involved in this interference are:
               SK 469:
                         1 - 13
3
               SK 781: 1, 2
4
                         1-4, 15, 16, and 18-21^1.
5
          The claims of the parties that do NOT correspond to Count 1
 6
      and that are NOT involved in this interference are:
7
               SK 469:
                         14-22
8
                SK 781: 3-5, 6-23, 24-26, 27-30, 31-33, 34-37
 9
                GBF:
                     none.
10
                FURTHER ORDERED that all times for taking action remain
11
      in effect.
12
                FURTHER ORDERED that times for taking action in the
13
      priority phase will be issued in due course.
14
                FURTHER ORDERED that if there is a settlement, the
15
      attentions of the parties are directed to 35 U.S.C. § 135(c) and
16
      Bd.R. 205.
17
                                                            BOARD OF
18
                                                         ) PATENT APPEALS
                          /Mark Nagumo/
19
                          MARK NAGUMO
                                                               AND
20
                                                        ) INTERFERENCES
                          Administrative Patent Judge
21
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 $^{^{1}\,}$ GBF claims 2, 4, and 19 are not patentable to GBF.

1 cc (via electronic mail): 2 For Gesellschaft fur Biotechnologische Forschung mbH: Anthony M. Zupcic and Robert H. Fischer, FITZPATRICK CELLA HARPER & 3 SCINTO, of New York City, New York. 4 5 For Sloan-Kettering Institute for Cancer Research: Richard L. DeLucia, Kenyon & Kenyon, of New York, New York; and Brenda 6 H. Jarrell, CHOATE, HALL & STEWART, of Boston, 7 Massachusetts. 8

Townes, Yolunda

Townes, Yolunda on behalf of Interference Trial Section From:

Sent: Wednesday, July 12, 2006 7:43 AM

'Zupcic, Tony (FITZPATRICK CELLA)'; 'Fischer, Robert (FITZPATRICK CELLA)'; 'DeLucia, Richard (KENYON & KENYON)'; 'Jarrell, Brenda (CHOATE HALL)' To:

Subject: Interference #105298_150 (MN) - Decision-Interlocutory Motions-Bd.R. 125(b) and #105298_151

(MN) - Redeclaration-Bd.R. 203(c)

Decision - Interlocutory Motions - Bd.R. 125(b) / Appendix - Board Exhibits

Redeclaration - Bd.R. 203(c)